

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
TEXARKANA DIVISION**

JERRY J. MILLS

Plaintiff

v.

JUDGE TIDWELL, ET AL.

Defendants

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Case No. 5:23cv64-RWS-JBB

ORDER

Plaintiff Jerry Mills, proceeding *pro se*, filed the above-styled and numbered civil rights lawsuit complaining of alleged deprivations of his constitutional rights. Docket No. 1. The case was referred to the United States Magistrate Judge in accordance with 28 U.S.C. § 636.

Plaintiff sued State District Judge John Tidwell and Bowie County assistant public defender Bart Craytor. *Id.* at 3. After reviewing the pleadings, the Magistrate Judge issued a Report on September 26, 2023, recommending that the lawsuit be dismissed with prejudice for failure to state a claim as to its refiling as a civil rights lawsuit, but without prejudice to Plaintiff's right to seek relief through state or federal habeas corpus or by other lawful means. Docket No. 7.

A copy of this Report was sent to Plaintiff at his last known address but was returned as undeliverable. Docket No. 8. On November 22, 2023, Plaintiff filed a notice of change of address, following this on January 19, 2024 with another notice of change of address. Docket Nos. 9, 10. Copies of the Report were sent to Plaintiff on November 22, 2023 and January 9, 2024, and acknowledgment cards show that Plaintiff received these copies on February 2 and February 15, 2024. Docket Nos. 11, 12.

However, no objections have been filed. As a result, Plaintiff is barred from *de novo* review by the District Judge of those findings, conclusions, and recommendations and, except upon grounds of plain error, from appellate review of the unobjected-to factual findings and legal conclusions accepted and adopted by the District Court. *See Duarte v. City of Lewisville, Texas,*

858 F.3d 348, 352 (5th Cir. 2017); *Arriaga v. Laxminarayan*, Case No. 4:21-CV-00203- RAS, 2021 WL 3287683, at *1 (E.D. Tex. July 31, 2021).

The Court has reviewed the pleadings in this case and the Report of the Magistrate Judge. Upon such review, the Court has determined that the Report of the Magistrate Judge is correct. *See Martin v. Driskell*, No. 6:19-CV-311-JDK-KNM, 2023 WL 5827586, at *1 (E.D. Tex. Sept. 7, 2023) (citing *United States v. Wilson*, 864 F.2d 1219, 1221 (5th Cir. 1989)) (where no objections to a Magistrate Judge's Report are filed, the standard of review is "clearly erroneous, abuse of discretion and contrary to law"). Accordingly, it is

ORDERED that the Report of the Magistrate Judge (Docket no. 7) is **ADOPTED** as the opinion of the District Court. It is further

ORDERED that the above-styled civil action is **DISMISSED WITH PREJUDICE** for failure to state a claim as to its refiling as a civil rights lawsuit, but **WITHOUT PREJUDICE** to Plaintiff's right to seek relief through state or federal habeas corpus or by other lawful means.

So ORDERED and SIGNED this 29th day of May, 2024.


ROBERT W. SCHROEDER III
UNITED STATES DISTRICT JUDGE